

ASSEMBLY BILL

No. 947

Introduced by Assembly Member Liu

February 18, 2005

An act to amend Section 94110 of the Education Code, relating to postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 947, as introduced, Liu. Postsecondary education: California Educational Facilities Authority.

(1) Existing law establishes the California Educational Facilities Authority Act, the purpose of which is to provide private institutions of higher education within the state an additional means by which to expand, enlarge, and establish dormitory, academic, faculty and staff housing, and related facilities, finance those facilities, refinance existing facilities, and to provide private and public institutions of higher education within the state an additional means to assist students in financing their costs of attendance. The act requires a "private college" to be a nonprofit private or independent degree-granting educational institution that is regionally accredited and empowered to provide a program of education beyond the high school level.

This bill would specify that, for purposes of obtaining financing under the act, a "private college" also includes a nonprofit affiliate of one or more private colleges the sole or primary purpose of which is to provide administrative or other support services to the affiliated private college or colleges, and that undertakes a project for the exclusive use and benefit of one or more of the affiliated private colleges. The bill would also specify that a "private college" includes a private nonprofit research organization affiliated with one or more

private colleges and engaged in basic research and advanced education at the predoctoral and postdoctoral levels, but solely for the purpose of refunding bonds or other obligations previously issued by the authority.

Because this bill would authorize the authority to expend funds for new purposes, it would make an appropriation.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 94110 of the Education Code is
2 amended to read:

3 94110. As used in this chapter, the following words and terms
4 have the following meanings, unless the context indicates or
5 requires another or different meaning or intent:

6 (a) "Authority" means the California Educational Facilities
7 Authority created by this chapter or any board, body,
8 commission, department, or officer succeeding to the principal
9 functions thereof or to whom the power conferred upon the
10 authority by this chapter is given by law.

11 (b) "Bond" means bonds, notes, debentures, or other securities
12 of the authority issued pursuant to this chapter.

13 (c) "Cost," as applied to a project or portion thereof financed
14 under this chapter, embraces all or any part of the cost of
15 construction and acquisition of all lands, structures, real or
16 personal property, rights, rights-of-way, franchises, easements,
17 and interests acquired or used for a project, the cost of
18 demolishing or removing any buildings or structures on land so
19 acquired, including the cost of acquiring any lands to which the
20 buildings or structures may be moved, the cost of all machinery
21 and equipment, financing charges, interest prior to, during, and
22 for a period after completion of, the construction as determined
23 by the authority, provisions for working capital, reserves for
24 principal and interest and for extension, enlargements, additions,
25 replacements, renovations and improvements, the cost of
26 engineering, financial and legal services, plans, specifications,
27 studies, surveys, estimates, administrative expenses, and other

1 expenses necessary or incident to determining the feasibility of
2 constructing any project or incident to the construction or
3 acquisition or financing thereof.

4 (d) "Dormitory" means a housing unit with necessary and
5 usual attendant and related facilities and equipment.

6 (e) "Educational facility" means a structure suitable for use as
7 a dormitory, dining hall, student union, administration building,
8 academic building, library, laboratory, research facility,
9 classroom, health care facility (including for an institution of
10 higher education that maintains and operates a school of
11 medicine, structures or facilities providing or designed to provide
12 services as a hospital or clinic, whether the hospital or clinic is
13 operated directly by the institution of higher education or by a
14 separate nonprofit corporation, the member or members of which
15 consist of the educational institution or the members of its
16 governing body), faculty and staff housing, and parking,
17 maintenance, storage, or utility facilities and other structures or
18 facilities related thereto or required or useful for the instruction
19 of students or the conducting of research or the operation of an
20 institution for higher education, and the necessary and usual
21 attendant and related facilities and equipment, but does not
22 include any facility used or to be used for sectarian instruction or
23 as a place for religious worship or any facility used or to be used
24 primarily in connection with any part of the program of a school
25 or department of divinity.

26 (f) "Faculty and staff housing" means a residential unit owned
27 by a participating college or participating nonprofit entity for use
28 by an individual holding a faculty appointment or a staff position
29 at a public university, public college, or participating college.

30 (g) "Participating nonprofit entity" means an entity within the
31 meaning of paragraph (3) of subsection (c) of Section 501 of
32 Title 26 of the United States Code that, pursuant to this chapter
33 for the purpose of owning student, faculty, or staff housing, as
34 approved by, and for participation with, the authority, undertakes
35 the financing and construction or acquisition of student, faculty,
36 or staff housing, on real property owned or leased by the entity,
37 for the benefit of a public college, public university, or
38 participating private college. The authority may determine any
39 additional qualifications of a participating nonprofit entity
40 through regulations or guidelines.

(h) “Participating private college” or “participating college” means a private college that neither restricts entry on racial or religious grounds nor requires all students gaining admission to receive instruction in the tenets of a particular faith, and that, pursuant to this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project.

(i) (1) “Private college” means an institution for higher education other than a public college, situated within the state and that, by virtue of law or charter, is a nonprofit private or independent degree-granting educational institution that is regionally accredited and empowered to provide a program of education beyond the high school level.

(2) *For purposes of obtaining financing under this chapter, “private college” also includes either of the following:*

(A) *A nonprofit affiliate of one or more private colleges, as defined in paragraph (1), the sole or primary purpose of which is to provide administrative or other support services to an affiliated private college or private colleges, and that undertakes the financing of a project for the exclusive use and benefit of one or more of the affiliated private colleges.*

(B) *A private nonprofit research organization affiliated with one or more private colleges, as defined in paragraph (1), and engaged in basic research and advanced education at the predoctoral and postdoctoral levels, but solely for the purpose of refunding bonds or other obligations previously issued by the authority.*

(j) (1) “Project” means a dormitory or an educational facility, faculty or staff housing, or any combination thereof, or any function concerning student loans, or interests therein, as determined by the authority.

(2) For a participating nonprofit entity, “project” means the construction or acquisition of student housing or faculty and staff housing. The authority, in consultation with the top administrative officials and the participating nonprofit entity, shall develop and adopt regulations to ensure, to the greatest extent practicable, that each project involving a participating nonprofit entity is used to house students, faculty, or staff of the participating private college, public college, or public university.

1 The student, faculty, or staff housing shall meet all of the
2 following criteria:

3 (A) Upon completion or acquisition of the project, the project
4 will be owned by a participating nonprofit entity and located on
5 real property owned, or leased by, that entity.

6 (B) The top administrative official of the public university,
7 public college, or participating private college that the project is
8 intended to benefit, verifies the need for housing and financing
9 assistance in a specific area pursuant to subparagraph (D).

10 (C) The project is monitored on an annual basis by the
11 authority to ensure that it meets the requirements of subparagraph
12 (E) and all other regulatory agreements entered into by the
13 authority.

14 (D) The project is located within a five-mile radius of the
15 boundary of a campus or satellite center of the public college,
16 public university, or participating private college that the project
17 is intended to benefit. The participating nonprofit entity may
18 request approval from the top official of the institution for a
19 project that is located outside the five-mile radius, provided that
20 all of the following criteria are met:

21 (i) There are no available and feasible sites within the
22 five-mile radius.

23 (ii) The project is near a mass transit destination.

24 (iii) The time required to commute from campus to the mass
25 transit destination, as estimated by the top administrative official,
26 typically does not exceed 30 minutes.

27 (E) (i) The project includes and maintains for 40 years a
28 restriction to the grant deed on the real property on which the
29 student or faculty and staff housing is to be located. The grant
30 deed shall accomplish all of the following:

31 (I) Give the public college, public university, or participating
32 private college that the project is intended to benefit the right, but
33 not the obligation, to purchase the property at fair market value.

34 (II) Ensure that students, faculty, or staff of the affected
35 campus will have first right of refusal to all available units.

36 (III) Require that, to the greatest extent feasible, at least 50
37 percent of student residents will meet the criteria for need-based
38 financial assistance, as determined by the top administrative
39 official of the affected campus.

(IV) Require that all contracts for construction and renovation of the proposed project shall be subject to, and comply with the provisions referenced in, Section 10128 of the Public Contract Code.

(ii) For the purposes of this subparagraph, the authority shall, through regulation or rule, define “student” and “faculty,” taking into consideration enrollment status requirements and employment status requirements. The definitions of “student” and “faculty” may be different for each participating campus.

(k) “Public college” means a community college.

(l) “Public university” means any campus of the University of California—~~or~~, the California State University, or the Hastings College of the Law.

(m) “Student housing” means a residential unit owned by a participating nonprofit entity, and located on real property owned by that entity, for use by an individual enrolled at a public college, public university, or participating private college.

(n) “Student loan” means any loan having terms and conditions acceptable to the authority that is made to finance or refinance the costs of attendance at any private college or a public college and that is approved by the authority, if the loan is originated pursuant to a program that is approved by the authority.

(o) “Top administrative official” means the chancellor in the case of a campus of the University of California, the dean in the case of the Hastings College of the Law, the trustees in the case of a campus of the California State University, the president in the case of a campus of the California Community Colleges, or the president or highest ranking official in the case of a participating private college.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The low-interest-rate environment allows not-for-profit educational organizations that have outstanding debt to refund those loans to generate cash-flow savings, but since June 2004, the Federal Reserve has raised interest rates five times. In order to ensure interest rate savings for entities affected by this act, it is imperative that it take effect immediately.

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